

AR

Modified PTO/SB/33 (10-05)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number

Q77547

Mail Stop AF
Commissioner for Patents
P.O. Box 1450 Alexandria, VA 22313-1450

Application Number

10/699,815

Filed

November 4, 2003

First Named Inventor

Hiroyuki ISHIDA

Art Unit

2875

Examiner

Adam C. Rehm

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal

The review is requested for the reasons(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

☒ I am an attorney or agent of record.

Registration number 57,574


Signature

Stephen R. Valancius
Typed or printed name

(202) 293-7060
Telephone number

September 5, 2006
Date



Pre-Appeal Brief Request for Review
U.S. Application No. 10/699,815
Atty. Docket No. Q77547

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q77547

Hiroyuki ISHIDA, et al.

Appln. No.: 10/699,815

Group Art Unit: 2875

Confirmation No.: 4439

Examiner: Adam C. Rehm

Filed: November 4, 2003

For: VEHICULAR HEADLAMP EMPLOYING SEMICONDUCTOR LIGHT-EMITTING
ELEMENT HAVING IMPROVED LIGHT DISTRIBUTION

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated April 3, 2006, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claim Rejections - 35 U.S.C. § 103

A) Murata and Lee

Claims 1-5, 7, 9, 10 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Murata (U.S. Patent No. 4,935,665) in view of Lee (U.S. Patent No. 6,637,922). Applicants respectfully traverse.

Claim 1 recites, among other things, a light-emitting element and a fluorescent body with a rotationally asymmetric shape filled around the light-emitting element. The Examiner asserts that Murata teaches a rotationally asymmetric body 3, 7, 31 filled around a semiconductor chip 2, but acknowledges that it is not a fluorescent body (*see* items 2 and 3 on page 3 of the Office Action, referencing Figs. 14 and 16-18). In order to correct this deficiency, the Examiner cites Lee and asserts that it teaches a fluorescent material disposed about a light source. Specifically, Lee discloses fluorescent material 5 at a periphery of a lens 2'' (Fig. 1C) or that a fluorescent material 4 may be included in a lens 2' (Fig. 3). However, as explained in the response filed June 14, 2006, even if Murata were modified with Lee it would not be modified so as to meet the claimed invention.

As explained in the June 14 Response, the elements (3, 7 and 31) that the Examiner asserts constitute the alleged asymmetric body are not all the same. Only the organic polymer layer 7 is filled around the light emitting diodes (LEDs) 2. The lens plate 3 and lenses 31 are not filled around the LEDs. However, the only motivation provided by Lee is to add a fluorescent material 5 around a periphery of a lens (Fig. 1C) or to add fluorescent material 4 in the lens 2' (Fig. 3). Thus, even if, for the sake of argument alone, Murata were modified with Lee, only the lens plate 3 or lenses 31 would be to modified. However, these lens plate and lenses 3, 31 are not filled around the light-emitting element as is the claimed fluorescent body. Therefore, even if Murata were modified with Lee, the combination would be deficient with respect to the claimed invention.

As previously explained in the June 14 Response, even if Murata were modified with Lee, the Murata organic layer 7 (the Examiner's alleged rotationally asymmetric body) which is filled around the Murata LEDs 2 would not be modified to include a fluorescent material. Indeed, the area around the bulb 12 of Lee is hollow. Following the teachings of Lee would lead to a hollow space around a light source (this possibility is already known to Murata as its hollow 11 is not filled in with an organic layer 7 in some embodiments). Since Lee teaches only the possibility of a hollow space around bulb 12, the only motivation Lee can provide for the area around the light source is a hollow space, not a fluorescent material. Lee simply provides no motivation for modifying the Murata organic layer 7 to include a fluorescent material.

In the Advisory Action of July 31, 2006, the Examiner asserts that Lee provides a teaching that fluorescent material may be used for any element through which light passes. However, it is unclear how the Examiner believes Lee provides such a broad teaching. Lee only utilizes fluorescent material at the periphery of a lens or in the lens. There is nothing to suggest fluorescent material at another location, and particularly nothing regarding a fluorescent material filled around the light 12. Since the only possibility that Lee provides is an empty space around the light 12, it simply cannot be used to provide motivation for including a fluorescent material in that space.

Finally, Murata specifically teaches that the organic layer 7 is transparent (*see*, for example, column 8, lines 58-63). Since Murata provides a specific disclosure of a transparent organic layer 7 it would not be modified to be fluorescent. Certainly Lee's teaching that an

Pre-Appeal Brief Request for Review
U.S. Application No. 10/699,815
Atty. Docket No. Q77547

element unrelated to the Murata organic layer 7 may be fluorescent provides no suggestion or motivation for going against the specific teachings of Murata for a transparent organic layer 7.

In view of the above, claim 1 is allowable over the combined teachings of Murata and Lee. Claims 2-5, 7 and 9-12 depend from claim 1 and are therefore allowable at least because of their dependency.

B) Murata, Lee and Segoshi

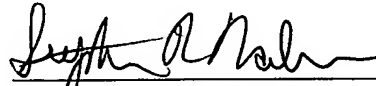
Claims 4 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Murata in view of Lee and further in view of Segoshi. Claims 4 and 11 depend from claim 1. The Examiner cites Segoshi only as teaching a blind. Even if it were appropriate to modify Murata and Lee with Segoshi, it would not correct the above-noted deficiencies of Murata and Lee with respect to claim 1 and claims 4 and 11 would be allowable at least by virtue of their dependency.

Pre-Appeal Brief Request for Review
U.S. Application No. 10/699,815
Atty. Docket No. Q77547

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Stephen R. Valancius
Registration No. 57,574

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: September 5, 2006